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EXAMINER

KEENAN, JAMES W

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 10

Application Number: 09/575551
Filing Date: 5/22/00
Appellant(s): Thompson et al

Kenneth Ohriner
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 1/16/02.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

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A statement identifying that there are no known related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

Appellant's brief presents arguments relating to a drawing objection. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP §§ 1002 and 1201.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims (56-57, 62, and 64) and (65) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

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The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,562,383	IWAI et al	10/1996
4,744,715	KAWABATA	5/1988

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 65 is rejected under 35 U.S.C. 112/1st paragraph. This rejection is set forth in prior Office action, Paper No. 6.

Claims 56-57, 62, and 64-65 are rejected under 35 U.S.C. 112/2nd paragraph. This rejection is set forth in prior Office action, Paper No. 6.

Claims 56-57, 62, and 64-65 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office action, Paper No. 6.

(11) Response to Argument

Appellant argues regarding the 112/1st paragraph (new matter) rejection that the embodiment set forth in figures 40-49 is an alternate to the loading subsystem shown in figures 13-15 in an overall processing system otherwise identical to the embodiment shown in figure 1, citing the use of the same identifying numeral 157 for the robot in both embodiments. However, the use of the same reference numeral to describe the robot is at best generic. The robot of figures 40-49 can not be the same robot as that set forth in figures 1 and 13-15 because that robot picks up wafers directly after they have been transferred out of the

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cassettes, as shown in figures 6-12. The robot in figures 40-49 can not do this; it picks up the cassette 51, as seen in figure 49, which is the only figure which shows the robot. There is no disclosure in the figure 40-49 embodiment which teaches the ability of the robot to pick up wafers directly in the manner that the robot of figures 13-15 does. Thus, this is not the same robot, and it would not necessarily have the ability to move transversely without an express disclosure to that effect. A generic statement that the embodiment of figures 40-49 operates in the same processing environment as the embodiment of figures 1-39 is not considered an adequate teaching that the robot can move transversely.

Appellant argues regarding the 112/2nd paragraph rejection that one skilled in the art would understand the classification of articles included by the phrase "and similar articles" when read in light of the specification. However, the specification merely recites the same language, i.e., "and similar articles"; thus, there is no indication from the specification what such articles would comprise. Furthermore, the similar phrase "or like material" has been held to be indefinite in that it was unclear how the materials had to resemble those recited (MPEP 2173.05(c)).

Regarding the 103(a) rejection, Appellant argues that teaching reference Kawabata fails to show a step of engaging or disengaging wafers with an engagement head which moves the wafers from a horizontal into a vertical orientation, because only table 11, not wafer engager 20, moves the wafers from a horizontal to a vertical orientation, but table 11 does not engage the wafers.

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This argument is based on two distinctions which are not actually required by the claims. First, there is nothing in the claims which distinguishes the wafer from the cassette. The claims simply require "at least one article". This article could be a wafer, plural wafers, the cassette, or an assembly of one or more wafers in the cassette. Thus, whether or not table 11 engages the wafers is moot.

Secondly, the claims do not require the engagement head to necessarily be the sole means of moving the articles from a horizontal to a vertical orientation. Element 20a at least to some extent assists in moving the wafers from a vertical to a horizontal orientation. Nothing in the claims precludes the combination of elements 11 and 20a from being considered an engagement head.

Appellant also argues that Kawabata is not germane to processing wafers. However, as previously indicated by the Examiner, the Kawabata reference is being utilized simply to show the obviousness of a single step (reorienting) in the overall processing environment of the base reference Iwai et al. As noted previously, Iwai et al show an engagement head operating in a processing system similar to that set forth in the claimed invention, but simply do not show that head to reorient the wafers. It is important to note, however, that the engagement head of Iwai et al has sufficient mechanical complexity such that it could be used to move wafers from a horizontal to a vertical orientation. Kawabata is considered to teach such a modification.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

**JAMES W. KEENAN
PRIMARY EXAMINER**

jwk
March 28, 2002

conferees:

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